

**MODUL LIMITED**  
Martin F. Casey (MFC -1415)  
**CASEY & BARNETT, LLC**  
317 Madison Avenue, 21<sup>st</sup> Floor  
New York, New York 10017  
(212) 286-0225  
Attorneys for Plaintiff

08 CV 00190

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
LOUIS DREYFUS COMMODITIES

Plaintiff,

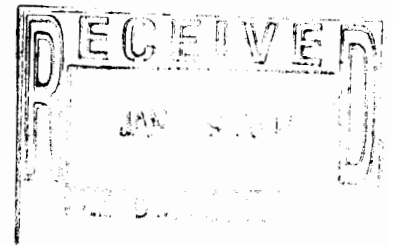
08 Civ.

- against -

COMPLAINT

THE AMERICAN STEAMSHIP OWNERS  
MUTUAL PROTECTION AND INDEMNITY  
ASSOCIATION, INC.

Defendant.  
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Plaintiff, by its attorneys, CASEY & BARNETT, LLC, for its Complaint, alleges upon information and belief, as follows:

1. This is an admiralty and maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure. Jurisdiction is predicated upon 28 U.S.C. §1333.
2. In the alternative, this Court has diversity jurisdiction pursuant to 28 U.S.C. §1332 in that plaintiff is a citizen of a foreign country, defendant is a citizen of the United States and the amount in controversy exceeds \$75,000.
3. Plaintiff, LOUIS DREYFUS COMMODITIES, is a corporation or other business entity incorporated in France with its principal place of business located at Immeuble Le Corosa, 1 Rue Eugene et Armand Peugeot, 92508 Ruell-Malmaison Cedex, France.

4. Defendant, THE AMERICAN STEAMSHIP OWNERS MUTUAL PROTECTION AND INDEMNITY ASSOCIATION, INC., is a domestic corporation with its principal place of business located at One Battery Park Plaza, New York, New York 10004.

5. Plaintiff is the charterer of the M/V SIRIOS and is the owner of a consignment of 24,800 bags of rice that were transported on the M/V SIRIOS from Kakinada, India to Conakry, Guinea between June 27, 2007 and August 22, 2007.

6. Upon the arrival of the vessel in Conakry on August 22, 2007 it was determined that various bags had sustained seawater damage, while other bags were short and some bags were non-delivered all of which resulted in a potential claim totaling approximately \$942,000.00.

7. In exchange for avoiding the arrest of the vessel by plaintiff and/or to avoid the attachment of other assets owned by the vessel owner by plaintiff in seeking to obtain security for its cargo claim, the vessel owner's indemnity insurer, defendant herein, issued a Letter of Undertaking in favor of cargo interests dated October 17, 2007 (hereinafter "LOU") in the amount of \$1,408,000.00.

8. The LOU provided, in pertinent part, as follows:

"This guarantee is issued without prejudice to the question of Owner's liability and reserving all rights, exceptions exemptions and liberties according to the Bills of Lading **and will be replaced by a bank guarantee in the same terms within a delay of 30 days**. This guarantee is given for one year and will be tacitly prolonged and renewed every year as long as it is not called upon in full and final settlement of the dispute as described above." (emphasis added).

9. Despite due demand made by plaintiff's representatives, defendant has refused and otherwise failed to issue the bank guarantee as required by it under the terms and conditions

of the LOU and has breached its obligations under the contract entered into by and between the parties.

10. By reason of the foregoing, plaintiff has sustained damages and seeks an order from the Court compelling defendant to issue the bank guarantee referenced in the LOU in the amount of US\$1,408,000.00

WHEREFORE, Plaintiff prays:

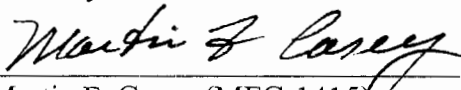
1. That process in due form of law may issue against Defendant citing it to appear and answer all and singular the matters aforesaid;

2. That the Court enter an Order requiring defendant to issue the bank guarantee set forth in the LOU, and

3. That this Court grant to plaintiff such other and further relief as may be just and proper.

Dated: New York, New York  
January 9, 2008  
228-25

**CASEY & BARNETT, LLC**  
Attorneys for Plaintiff

By:   
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